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Paper No. 5

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**JAN 23 2002**

In re Application of  
Wright, et al.  
Application No. 09/768,694  
Filed: January 24, 2001  
Attny. Docket No. 1033.006US1

**OFFICE OF PETITIONS**

DECISION GRANTING  
PETITION

This is a decision on the petition entitled, "PETITION TO ESTABLISH PRIOR RECEIPT IN THE PTO OF ITEMS CONSIDERED AS OMITTED BY THE PTO -- RESPONSE TO NOTICE OF INCOMPLETE APPLICATION," filed June 5, 2001, requesting that the above-identified application be accorded a filing date of January 24, 2001.

The application was deposited on January 24, 2001. On April 11, 2001, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" informing petitioners that the application had not been accorded a filing date because the specification filed on January 24, 2001 did not include a claim, as is required by 35 USC 112. In addition, the Office required that the abstract be placed on a separate sheet.

In response to the Notice, petitioners timely filed an abstract on a separate sheet of paper and the present petition on June 5, 2001. Petitioners request a filing date on the basis that the specification filed on January 24, 2001 included at least one claim, albeit in non-standard claim format.

A review of the original application papers reveals that page 78 of the specification contains claims that do not comply with the current Office practice of having each claim begin with "I (or we) claim" or it's equivalent. MPEP 608.01(m) Instead, 2 of the claims begin with the title of the invention -- "The Flexible, Orienting, and Better Shopping Wallet for Neitizens is..." Because two of the claims begin with words that are substantially similar to an acceptable preamble to the substantive elements of claims -- "The invention claimed is"--, the application is entitled to a filing date of January 24, 2001.

The petition is **granted**.

The claims, however, are informal. Petitioners should revise the claims to begin with the words, "We claim..." or "The invention claimed is..." prior to examination on the merits.

It is noted that the third listed claim refers to itself. As this claim is an improper dependent claim, it is not acceptable.

Office financial records indicate that petitioners were charged twice for the instant petition. Pursuant to petitioners' request,

a treasury check for \$130.00 will be scheduled in due course.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of January 24, 2001.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan".

Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy